

U.S. District Courts in Omaha & Lincoln, NE – Site Visit (Aug. 18, 2009)

Report by Terri O'Grady, Court Reporter, 4<sup>th</sup> Judicial District

Equipment /Courtroom Setup

- Courtroom equipment costs were estimated around \$50,000 per/courtroom with maintenance contracts around 10% of total cost
  - Reporters in Iowa currently buy and maintain their own equipment and supplies
- All Courtrooms were acoustically sound/new sound panels added to make more efficient.
  - In questioning the IT people they said “**acoustics, acoustics, acoustics**” If acoustical problems currently exist in courtrooms, problems with transcription will be more pronounced.
    - Most courtrooms in Iowa are older and cavernous/large windows/not acoustically sound
  - IT stressed **need for excellent sound systems/equipment/up-to-date technology**. Stressed being compatible with other electronic systems. Feds started with 4 tracks and have now gone to 8.
  - Stressed need to have designated sound tracks for each speaker. In one instance the judge and witness were on same sound track, caused many problems in transcription.
  - Need for guidelines, procedures, training followed in courtrooms
    - Iowa has many, many pro se litigants, i.e., domestics, dissolutions, criminal
    - Juvenile court has any number of attorneys, litigants/per case. Will be very hard to mic everyone
    - Court Reporters are highly trained, required by the Supreme Court to have continuing education
  - Read back was not necessarily easy. Need to note the time code in order to find what you are looking for
  - All IT people said the monitors needed to be manned and best if one person monitoring one courtroom. Did not feel multiple monitoring was a good idea. Would not produce the best record.
  - The quality control was the daily use of the system.
    - Many courtrooms in Iowa are used once a week, case loads vary greatly from county to county, equipment would be sitting idle a lot of the time
- Controlled access to the courthouse/few people in and out of courtrooms
  - Iowa - Many people in and out of the courtrooms
  - Iowa - No controlled access in most courthouses/courtrooms

### Staff

- All courtrooms had a courtroom deputy/ sound monitor
  - Jury trials require two deputies
- Each judge had own secretary/administrative assistant
- Had access to on-staff IT people
- Court Reporters and Transcriptionists who produced Transcripts
  - At this time in Iowa, reporters do all the jobs above, provide their own equipment, are our own IT people, buy all supplies in producing transcripts and supplies for our equipment, purchase the software judges/attorneys use for realtime
- Law Clerks

### Users

- Courtroom Deputy
  - Trained and uses system daily/daily use is their quality control/monitoring system at all times in use
    - Many systems in Iowa would not be used on a daily basis
  - Jurors not identified in jury trials
  - Felt system was accurate
  - Does not compare transcript to tape
- Reporters/Transcriptionists
  - Reporters stated problems with paper shuffling, not speaking into microphone, more than one person on a track
  - System is accurate, but transcript is only as good as the person transcribing/confidence monitor monitoring and annotating the hearing
- Attorneys/Court Personnel
  - Appreciated the quick access to the hearings after court
  - Hearings are downloaded to the Court system and then immediate access/compatible with the electronic court system/ **this is a pilot program** and not being used in all courts
    - Realtime is immediate availability with access to interact with transcript
    - Many cases in Iowa (juvenile, dissolutions) would have to be redacted or could not be put on the system for availability due to privacy laws
  - Felt system was accurate
  - Does not compare transcript to tape

### Proceedings

- Judge Gossett – Magistrate
  - Mostly preliminary hearings/Probation revocations. Has limited jurisdiction
  - These judges have never had court reporters and are switching from analog to digital which was a great improvement

- Court Reporters used for jury trials if available; they only have 3 ½ court reporters available for 7 judges, so many times do not have a reporter available for the jury trials/ reporters transcribe audio
- Judge Kopf – Article III District Court Judge
  - Mostly uses digital recording/Uses Court Reporters for jury trials and transcription of audio
  - Had Court Reporter that provided realtime, but has since retired
  - Did not make use of realtime capabilities although had it available
  - Made his own notes/handwritten as he stated “old judge’s habit”
  - Courtroom Deputy/monitor is court reporter trained
  - Feels savings not using reporter
    - Reporters in Iowa do all the judges’ typing, reporting, IT work that Nebraska Federal court has 4 or 5 people covering that same work

Date: August 21, 2009

To: Chief Judge Charles L. Smith

From: Kent Wirth, District Court Administrator, 4<sup>th</sup> Judicial District

**Re: Site visits to the U.S. District Courts in Omaha and Lincoln, NE, on August 18, 2009**

I think the information received at both sites provided a clear indication that with the right equipment, in the right setting and with the necessary support structure it is possible to provide an accurate record of court proceedings. The judicial officers and attorneys involved in the process were certainly ardent supporters and that would certainly have an impact for a successful transition to this way of making the record.

The technology has advanced to the point where it is now possible to obtain an accurate recording of the proceedings. Multiple track systems allow transcribers to identify individual speakers. Improved microphones limit background noise and provide higher quality recordings.

The issue for many courthouses will be the lack of infrastructure to support both the sound and recording systems. Not all courthouses will have adequate power sources in the courtrooms. So much like preparing for EDMS it will be necessary to plan on preparing the courtrooms almost from scratch or from the ground up to support digital recording. In that vein it will also be difficult to cable or wire many courtrooms in such a way to keep the wiring unobtrusive. The existing courtrooms were not built in preparation for this technology. Again like EDMS this will be a hurdle that needs to be acknowledged, and analyzed but can certainly be dealt with.

Probably the most critical issue will be the personnel support dedicated to the project. Technical assistance to insure the equipment is installed correctly and functions properly. But probably more important is the staff in the courtroom necessary to monitor the equipment during the entire proceeding. This is not a task that can be done half heartedly and expect a viable product. The quality of the recordings will have a dramatic impact on the quality the final product. To insure a high quality transcript it will be necessary to have well trained personnel on hand for every hearing.

Digital recording of hearings is possible and is a technology that needs to be included in discussions and the planning of the future of the court system.

DART Committee: Site Visit Report  
**U.S. District Court: Omaha & Lincoln, NE**

Prepared by John Goerd

Site visit date: Aug. 18, 2009

Site visit team members: *Judge Charles Smith, John French, Darrin Raymond, John Goerd, Kent Wirth (Dist. Ct. Admin., 4<sup>th</sup> District); Terri O'Grady, Ct Reporter from Council Bluffs.*

**1. Court Background Information**

- a. Number of judges
  - i. # of general jurisdiction judges – *2 Article III Judges*
  - ii. # of limited jurisdiction judges – *3 magistrate judges; 2 senior judges*
  - iii. Total # of judges – *7 total judges*
- b. Number of courtrooms
- c. Number of court reporters employed by court
  - i. Number of certified steno court reporters (not real-time)
  - ii. Number of certified real-time court reporters – *2 full-time plus 2 half-time*
- d. Number of electronic recording monitors who are not certified court reporters: *The courtroom deputy (courtroom clerk) monitors the DART and enters log notes.*
- e. Source of funding for DART (local, county, state): *Federal government*

**2. Judicial support staff for each judge (# and types):**

- >> *Article III Judges: 1 court reporter; 2 law clerks; 1 secretary; 1 courtroom deputy (clerk)*
- >> *Magistrate judges: 0 court reporters; 1 law clerk; 1 secretary; 1 ctroom deputy (clerk)*

**3. History of electronic recording in this court**

- a. Year they began using electronic (tape or digital): *started analog (tape) recording in Magistrate court in the early 1990s; started digital recordings 5 years ago*
- b. Year they began using digital recording: *2004*
- c. Reason(s) why they implemented digital recording: *Better than tapes*
- d. Which DART system (e.g., FTR) – *Voice IQ*
- e. Reasons they selected this system rather than one of the others: *Bid process; VIQ was the best overall value (cost was much less than CourtSmart; preferred VIQ for technical reasons over FTR)*
- f. Have they always used this vendor? (If "no" – explain): *Yes*

**4. Description of the DART system**

- a. How many courtrooms have a DART system?
  - i. # with audio only – *Magistrates and Bankruptcy Courts use DART (audio only)*
  - ii. # with video – *None with video*

iii. If only some have video, explain why some do and some do not: NA

**b. What DART-related equipment is in each courtroom?**

- i. # microphones (and location in courtroom) – 4 microphones per courtroom
- ii. PA system? – *Exceptional PA system; needed because the courtroom is very large with very high ceilings (voices could not be heard clearly without the PA system); tech staff claim they spent \$50,000 on the PA system alone.*
- iii. Conference phone integrated with system?
- iv. Remote interpreter equipment integrated with system?

**c. Back-up and long-term archiving of digital recordings**

- i. Describe how the digital recordings are backed-up each day: *Automatically backed up to a server on the network. Courtroom clerk also uploads the audio recordings to the PACER system at the end of each day – where they can be accessed by anyone by clicking on an icon associated with the audio file located next to the date of the proceeding.*
- ii. Describe how they are archived for long-term storage (DVDs v. network/): *See above.*

**d. Cost per courtroom for their DART system**

**5. Daily management of the digital recording system in the courtrooms**

- a. Staff in each courtroom vs. central management – *Deputy clerk in each courtroom monitors the system and enters log notes.*
- b. Explain staffing assignments (*see above*)
- c. Explain daily procedures for those who manage the system: *Dep. Clerk turns system on when judge enters the courtroom; turns it off when judge leaves courtroom. Enters log notes during proceedings. Uses a new VIQ utility at end of morning session and at end of afternoon session to send all the audio files to the server, where they are automatically uploaded to the PACER system – where anyone can access the audio file by locating the case (case number) and date of the proceeding. There is a link associated with the courtroom event (hearing) that takes you to the audio file, which can be opened with Windows Media Player. For a hearing concluded at 4:30 PM, the audio file will be available on the PACER system by 5:00 PM.*

**6. Courtroom procedures for attorneys and litigants to ensure complete and clear recordings**

- a. Explain procedures: *Attorneys are reminded to stay at their tables and speak into a microphone.*

- b. Problems or issues: *Attorneys sometimes talk at the same time or speak as they walk away from the microphones. Either the judge or deputy clerk will remind them to speak one at a time or to speak only when in front of a microphone.*

**7. Challenges presented by the use of DART:**

- a. Jury selection *(not discussed)*
- b. Requests for playback of witness testimony or attorney questions: *The courtroom clerk demonstrated how to do this for the site visit team. It took about 30 to 40 seconds to locate the audio file, open it in Windows Media Player, move the starting point to the approximate time of a particular statement by an attorney, and click "Play."*
- c. Distribution/use of the audio/video records (any restrictions/limits?): *The audio recordings for court proceedings on a given day are available to the public on the PACER system by about 5:00 PM that day.*

**8. Types of cases or proceedings that are most amenable to the use of DART (without a court reporter)**

- a. Observations of judges: *The judges we talked to see no limitations; DART could be used for any type of proceeding; though the Article III judges use court reporters because they like the benefits of real-time reporting*
- b. Observations of attorneys: *The attorneys we talked with see no limitations; DART could be used for any type of proceeding*

**9. Types of cases or proceedings that are least amenable to the use of DART (without a court reporter)**

- a. Observations of judges: *See 8.a. above*
- b. Observations of attorneys: *See 8.b. above*

**10. Reliability of the DART system (% of time that it operates with technical problems or failures)**

Based on feedback from judges, courtroom clerks, and attorney, the consensus is:

- a. Hardware: *Excellent*
- b. Software: *Excellent*
- c. Human error: *Very rare.*

**11. Accuracy of the digital records: Completeness and clarity of the digital recordings: Issues and concerns**

- a. Observations of Judges -- *Very good; never had a problem; never had an appeal related to the inaccuracy or incompleteness/in audible in an audio recording.*
- b. Observations of court manager/tech staff: *same*
- c. Observations of DART monitors/courtroom clerk: *same*

- d. Observations of attorneys: *same*

## **12. Accuracy of the written transcripts**

- a. Who produces them? *Court reporters or transcriptionists on a list of approved transcriptions. Assigned on a rotating basis.*
- b. *Qualifications for transcriptionists? – No specific certifications for a transcriptionist.*
- c. Process for requesting & obtaining a transcript – *They have a list of experienced transcriptionists; they call only persons on that list.*
- d. Completeness and accuracy of written transcripts: Issues and concerns
  - i. Observations of judges: *Excellent – never had a problem*
  - ii. Observations of attorneys: *Excellent – never had a problem.*

## **13. Advantages of courtroom DART systems**

- a. Observations of judges: *Less expensive; reliable; don't have to worry about scheduling a court reporter*
- b. Observations of court manager/tech staff
- c. Observations of court reporters/DART monitors: *easy to manage and annotate; easy to upload the audio recordings to the PACER system; easy to access them and listen to them on PACER*
- d. Observations of attorneys: *Quick access to the record on PACER without the expense of paying for a transcript; very accurate and complete*

## **14. Disadvantages of & problems with courtroom DART systems**

- a. Observations of judges: *One time the equipment failed and they didn't know it. Fortunately, no transcript was required. This has also happened with court reporter equipment.*
- b. Observations of court manager/tech staff: *Need high quality PA and sound system in their courtrooms, which can be expensive.*
- c. Observations of court reporters/DART monitors: *Possibility of mechanical failure or human error, but they are rare.*
- d. Observations of attorneys: *Some attorneys might want a certified transcript of witness testimony the next day to impeach a witness, but it takes three times longer to produce a written transcript from an audio recording than from a court reporter's record.*

## **15. Satisfaction with their DART system: Would they recommend it? (Explain)**

- a. Observations of judges: *Very satisfied; they would recommend VIQ.*
- b. Observations of court manager/tech staff: *Very satisfied; they would recommend VIQ.*
- c. Observations of DART monitors: *Very satisfied; they would recommend VIQ.*
- d. Observations of court reporters: *They are less sanguine about the benefits of DART and more hesitant to recommend it; real-time cannot be provided by DART*



- e. Observations of attorneys: *Very satisfied.*

**16. Recommendations/cautions for the Iowa courts regarding DART**

- a. Observations of judges: *Need high quality equipment, competent staff in the courtroom, and competent tech staff to handle problems*
- b. Observations of court manager/tech staff: *A high quality PA system is a key to a high quality DART system. There were some initial problems that the company that did the installation did not handle well; court tech staff solved the problem by going directly to Voice IQ.*
- c. Observations of DART monitors:
- d. Observations of court reporters: *Real-time reporting is a great benefit to trial judges; DART cannot provide this benefit.*
- e. Observations of attorneys:

**17. Other observations**

*The two judges and attorneys (a U.S. attorney, a federal public defender, and a private defense attorney) with whom we spoke were overwhelming positive about the reliability of the DART equipment, the completeness and accuracy of the digital recordings, and the accuracy of the transcripts produced from the recordings.*

*However, there are some important considerations that should temper the positive reviews to some extent. The federal courts are much better-funded and have much smaller caseloads than Iowa's state courts. The federal courthouses in Omaha and Lincoln are relatively new, unlike most county courthouses in Iowa. They have excellent PA systems; the PA system in Lincoln cost \$50,000! The federal courtrooms were quiet, with just the prosecutors and the defendant with his attorney – plus a judge and courtroom clerk. The quiet courtroom settings were not like most county courtrooms on court service days. The federal courts also had two full-time tech staff to support the two courthouses, which housed a total of about eight full-time judges – a support staff-to-judge ratio that will not be duplicated in Iowa.*

*The tech staff emphasized that an excellent PA system is required as a backbone for the DART system in a courtroom. They said they spent \$50,000 on the one in Lincoln. Darrin Raymond noted during the discussion, however, that Plymouth County installed a high quality Bose surround-sound PA system in one of the courtrooms at a cost of \$15,000.*

*See attached: District of Nebraska; Digital Recording Lessons Learned (Attachment 5) provided by the Federal District Court in Lincoln, NE.*

**Attachment 5**

**District of Nebraska  
Digital Recording Lessons Learned**

**Courtroom Procedures**

Attorneys must talk directly into microphones.

**Acoustics**

Study courtroom acoustics. If acoustical concerns currently exist in a courtroom, problems will become more pronounced when transcriptionists transcribe hearings and trials from digital recordings.

We added acoustical panels added to the Omaha courtrooms.

**Sounds Systems**

Courtrooms need to have excellent sound systems.

We started with four channel systems, and we are now upgrading most systems to eight channels, which requires a reconfiguration. We have recently converted some courtrooms to eight channel cards because we needed one channel to record all channels in order to upload the files to the electronic case filing system (CM/ECF).

Transcriptionists appreciate microphones separated on more channels, but the eight channel cards are more expensive.

Carefully consider and then test microphone placement. Sidebars create special difficulties.

**Impact on Staff**

Most of the information technology staff time was spent getting software VoicelQ to work with our business practices. For example, we needed more flexibility in the manner in which the digital recording system accepts case information. The system did not work well for multi-defendant and civil cases.

The information technology staff did not experience many problems with the digital system itself.

While VoicelQ provided some training for staff, information technology staff had to provide additional training for courtroom deputies.

The best information technology staff person to assign to a digital recording project is a person with a background in hardware, software, and electronics.

The magistrate courtroom deputies formerly recorded hearings on tape decks. The job of Judge Kopf's courtroom deputy changed the most when the court transitioned to digital

recording because Judge Kopf, an Article III judge, previously used a full-time court reporter.

Machines can break, so there may be downtime. Our courtroom deputies perform a sound check on all microphones at the beginning of each day to ensure that everything is working properly.

Court staff was required to train contract transcriptionists on new software. The change to digital software changed the court's business practices because it previously sent tapes to transcriptionists. The court now burns CDs to send to contract transcriptionists. Staff court reporters download hearings and trials directly from the network.

Digital recording reduced the burden on court staff of contracting with non-staff court reporters.

#### **Vendors**

Available vendors include DCR; FTR; VoicelQ; and CourtSmart. DCR was not in business when the court went through the competitive bid process.

If possible, try to deal directly with the manufacturer instead of the reseller. The court experienced several problems and delays when it could not work directly with VoicelQ and had to work directly with the reseller.

#### **Equipment**

To save money, buy servers from a different source than the digital recording vendor.

The playback feature was not user friendly. We bought additional switch boxes to make it easier for courtroom deputies to play back portions of hearings.

Courtroom deputies have two monitors in the courtroom – one to monitor the digital VU meters and the other to perform other work.